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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Robert O. Banker

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EXAMINER

IDOWU, OLUGBENGA O

ART UNIT

PAPER NUMBER

2623

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/692,920	<b>Applicant(s)</b> BANKER ET AL.	
	<b>Examiner</b> OLUGBENGA O. IDOWU	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 16-18, 21-23, 25-27, 32, 34-35, 38-40 and 42 - 59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 16-18, 21-23, 25-27, 32, 34-35, 38-40 and 42 - 59 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. In response to applicant's arguments in the first paragraph of page 21 of the remarks regarding a computed average instead of a predetermined threshold; Rubenstein states that the value of the average, which is also a threshold, is calculated and then the key word and phrases are collected so that they approach the value of the calculated average. A predetermined value is used because a value that is calculated is used in subsequent combinations of index ranges col. 10, line 48 – col. 11, line 10.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 32, 34, 35, 38 - 45, 52 – 55 and 57-59 rejected under 35 U.S.C. 103(a) as being unpatentable over LaJoie, patent number: US 5 850 218 in view of Rubienstien, patent number: US 5 721 897.

As per claims 1, 2, 52 and 59, LaJoie teaches a method for providing media information to a user via an interactive media services client device coupled to a programmable media services server device (Distribution Fig. 1, 6, 15), said method comprising steps of:

“media services client device for providing media to a user” [6] comprising a “processor” [30] and “memory for storing media information . . . corresponding to a plurality of

respective accessible media" [32] that are received via a server [15] (user receiving data, col. 10, line 42 - col. 11, lines 19, 45 - 60);

Configuring a display order of media titles in the received media information according to the value of a media information parameter (col. 27, lines 64 – col. 28, line 26);

Configuring the continuous sequence of user-selectable index for indexing the media titles in the display order, each user-selectable index corresponding directly to the media titles in the received media information determined by a respective values of the media information parameter corresponding to the user selectable index (selectable index that display information, col. 25, lines 15 – 33, col. 28, lines 16 - 26), such that selection of any of the user-selectable index automatically provides the media titles corresponding to the selected index (selectable index that display information, col. 25, lines 15 – 33, col. 28, lines 16 - 26);

Presenting, to the user, the selectable index in an interactive media guide display (Fig. 22 and 23);

Receiving selection of a first user-selectable index, the selection being a triggering event to provide at least a portion of the media titles corresponding to the first user-selectable index range and without presenting an additional index that was not previously presented prior to selection of the first user selectable index (display based on selection, Fig. 22 and 23, col. 28, lines 16 - 49)

Directly responsive to a user selecting a first user selectable index range, providing simultaneously in the display order at least a portion of the media titles

corresponding to the first user selectable index range (Fig. 22 and 23, col. 28, lines 16 - 49)

LaJoie does not teach Configuring each index in a continuous sequence of variably sized user selectable index ranges the size of each of the index ranges based on a predetermined threshold number of media titles; each of the user selectable index range being configured to provide the media titles according to the threshold defining a predetermined number of media titles. Wherein, in response to determining that the number of media titles corresponding to the first user selectable index range is less than the threshold, combining the first user selectable index range with an index within another user selectable index range such that the media titles corresponding to the first user-selectable index may be accessed via a combined user selectable index range.

In an analogous art, Rubenstein teaches configuring each index (512, Fig. 5) in a continuous sequence of variably sized user selectable index ranges the size of each of the index ranges based on a predetermined threshold number of media titles; each of the user selectable index range being configured to provide the media titles according to the threshold defining a predetermined number of media titles.

Wherein, in response to determining that the number of media titles corresponding to the first user selectable index range is less than the threshold, combining the first user selectable index range with an index within another user selectable index range such that the media titles corresponding to the first user-selectable index may be accessed via a combined user selectable index range (col. 27, line 64 – col. 28, line 26).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the interactive program of LaJoie by including an indexing configuration as described in Rubenstein's browsing system for the advantages of having predictable results of facilitating the quick retrieval of information of interest.

Claims 3 and 39 are rejected wherein the "range of values defining each user-selectable index is selected from a group consisting of: an alphanumeric character [and] a plurality of alphanumeric characters" (Eick et al.: Figures 16-22).

Claims 4 and 40 is rejected wherein the "media information parameter is selected from the group consisting of title name . . ." (LaJoie et al.: Figure 22; Col 27, Line 64 – Col 28, Line 26).

Claims 5 and 41 are rejected wherein the method/system comprises "receiving user input identifying the media information parameter" such as Title - Letter for "indexing the media titles" (LaJoie et al.: Figure 22; Col 27, Line 64 – Col 28, Line 26).

Claims 32 and 34 are rejected in light of the aforementioned wherein the system "receives user input identifying the first user-selectable index range" wherein "user input is initiated by the user pressing an arrow button on a remote control" (LaJoie et al.: Col 28, Lines 16-26, Rubenstein, col. 10, line 47 – col. 11, line 10).

Claim 35 is rejected wherein Figures 17-23 of LaJoie et al. illustrate that the "interactive media guide includes a plurality of indexing prompts and a plurality of media titles".

Claims 38 and 42 are rejected in light of the combination of references and in particular the teachings of LaJoie et al. The LaJoie et al. reference sets forth that upon entry to

the indexing by alphabetical list that the previous indexing term associated with “user input designating . . . [a] media title to be highlighted” is highlighted as the default (LaJoie et al.: Col 27, Line 64 – Col 28, Line 15). Accordingly, taken in combination in response to the user selecting a first program for viewing (ex. “CBS Sports Special) and returning to and selecting or highlighting another program (Ex. “Extreme Skiing”), the system would subsequently, “[highlight] a second user-selectable index range associated with a second media title . . . in response to the client device receiving user input designating said second media title to be highlighted” upon the user returning to accessing the program Title – Theme – Letter indexing functionality.

Claim 43 is rejected wherein the “each respective range of values is further determined according to a first threshold defining a “first range of values defining the first user-selectable index is an alphanumeric character” (ex. “N”) and a “second range of values defining a second user-selectable index is at least two alphanumeric characters” (ex. “N\*”) or all titles up to the established threshold (MAXDISPLAY = 6) in the set defined by {N – Nzzz . . . } (Eick et al.: Figures 18-20).

Claims 44, 45, and 55 are rejected wherein the “first range of values defining the first user-selectable index range is an alphanumeric character” (ex. “N”) and a “second range of values defining a second user-selectable index range is at least two [or a plurality of] alphanumeric characters” (ex. “N\*”) or all titles up to the established threshold (MAXDISPLAY = 6) in the set defined by {N – Nzzz . . . } (Eick et al.: Figures 18-20, Rubenstein, col. 10, line 47 – col. 11, line 10).

Claims 53 and 54 are rejected in light of the aforementioned wherein the “portion of the received media information corresponds to a user-selected category” wherein the “user-selected category corresponds to the media titles in the received media information corresponding to all the movies in the media information” (LaJoie et al.: Figure 20).

Claim 57 is rejected in light of the aforementioned wherein the LaJoie et al. reference teaches that the “media titles are ordered based on both the user-selected category, index range and the first user-selectable media” (Ex. Title – Theme – Letter, Rubenstein, col. 10, line 47 – col. 11, line 10).

Claim 58 is rejected wherein the “first user-selectable index and a first media title associated with said first user-selectable index range are highlighted” (LaJoie et al.: Figure 22; Col 28, Lines 27-39, Rubenstein, col. 10, line 47 – col. 11, line 10).

Claims 16 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaJoie et al. (US Pat No. 5,850,218), in view of Rubinstein (US Pat No. 5,721,897), and in further view of Knudson et al. (US Pub No. US 2005/02024387)

In consideration of claims 16 and 48, the LaJoie et al. reference discloses that the media guide and associated functionality is provided to cable subscribers. The reference, however, does not explicitly that cable subscribers are “charged a fee in connection with the provision of indexing functionality” associated with being allowed to access the cable provider’s network/services. In an analogous art pertaining to the display of program guide information, the Knudson et al. reference provides evidence that cable subscribers are “charged a fee in connection with” access to interactive



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services including those associated with interactive media guides whereupon lack of payment disables access to those services (Figure 105; Para. [0211]). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to “charge the user a fee in connection with the provision of indexing functionality” for the purpose of charging subscribers usage fees in order for service providers to re-coup costs and profit from providing cable services.

Claims 17, 18, 21-23, 25-27, 46, 47, 49, 50, 51, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaJoie et al. (US Pat No. 5,850,218), Rubinstein (US Pat No. 5,721,897), and in further view of Young et al. (US Pat No. 5,808,608).

An interactive media services client device for providing media information to a user [6] comprising:

memory for storing media information received from a server [32], said media information

corresponding to a plurality of respective accessible media; and a processor [30] configured to:

present, to the user, the selectable index in an interactive media guide display,

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determine the media titles in the received media information corresponding to each user-selectable index and a user-selected category (selectable index that display information, col. 25, lines 15 – 33, col. 28, lines 16 - 26);

and

directly responsive to a user input, provide simultaneously in the display order at least a portion of the media titles in the received media information corresponding to a first user-selectable index and the user-selected display, without presenting an additional index that was not previously presented prior to selection of the first user-selectable index (display based on selection, Fig. 22 and 23, col. 28, lines 16 - 49)

LaJoie does not teach a user selectable index range and each of the user selectable index ranges being configured to provide a portion of the media titles based on a predetermined threshold number of media titles, directly in response to selection of one of the selectable index ranges;

enable a continuous sequence of variably sized user-selectable index ranges for indexing displayed media titles, each user-selectable index range directly corresponding to a range, the size of each of the index ranges based on a predetermined threshold number of media titles;

causing a display order of the media titles in the received media information according to the value of the release year and range of time of the media title;

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In an analogous art, Rubenstein teaches each of the user selectable index ranges being configured to provide a portion of the media titles based on a predetermined threshold number of media titles, directly in response to selection of one of the selectable index ranges. Enable a continuous sequence of variably sized user-selectable index ranges for indexing displayed media titles, each user-selectable index range directly corresponding to a range, the size of each of the index ranges based on a predetermined threshold number of media titles (col. 27, line 64 – col. 28, line 26).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the interactive program of LaJoie by including an indexing configuration as described in Rubenstein's browsing system for the advantages of having predictable results of facilitating the quick retrieval of information of interest.

The combination of LaJoie and Rubenstein does not teach causing a display order of the media titles in the received media information according to the value of the release year and range of time of the media title.

In an analogous art, Young teaches causing a display order of the media titles in the received media information according to the value of the release year and range of time of the media title (Young: col. 13, lines 60 – col. 15, line 23).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of LaJoie and Rubenstein by including a system that also sorts program based on date as described in Young's television schedule system for the advantages of ordering the display of information based on available characteristics.

Claim 18 is rejected in light of the aforementioned wherein “only media titles belonging to a sub-list of media titles”, or those corresponding to the user-selected index or category is “presented to the user” in light of the combined references (LaJoie et al.: Col 6, Lines 29-46).

Claims 21 and 23 are rejected in light of the aforementioned wherein the system “receives user input identifying the first user-selectable index range” wherein “user input is initiated by the user pressing an arrow button on a remote control” (LaJoie et al.: Col 28, Lines 16-26, Rubenstein, col. 10, line 47 – col. 11, line 10).

Claim 22 is rejected wherein the “media titles are ordered based on the user-selected category and the first user-selectable index range” in light of the combined references (LaJoie et al.: Col 27, Lines 24-28, Rubenstein, col. 10, line 47 – col. 11, line 10).

Claim 25 is rejected wherein the “first user-selectable index and a first media title associated with said first user-selectable index range are highlighted” (LaJoie et al.: Figure 22; Col 28, Lines 27-39, Rubenstein, col. 10, line 47 – col. 11, line 10).

In consideration of claim 26, the LaJoie et al. reference sets forth that a media title may be highlighted in response or subsequent to the user designating that particular user selectable index range (Col 28, Lines 16-39). Accordingly, the reference meets the limitation “wherein a second media title associated with a second user-selectable index range is highlighted in response to the client device receiving user input designating said second user-selectable index range to be highlight” in connection with the user

selecting a program and index other than an established default (Rubenstein, col. 10, line 47 – col. 11, line 10).

Claim 27 is rejected in light of the combination of references and in particular the teachings of LaJoie et al. The LaJoie et al. reference sets forth that upon entry to the indexing by alphabetical list that the previous indexing term associated with “user input designating . . . [a] media title to be highlighted” is highlighted as the default (LaJoie et al.: Col 27, Line 64 – Col 28, Line 15). Accordingly, taken in combination in response to the user selecting a first program for viewing (ex. “CBS Sports Special) and returning to and selecting or highlighting another program (Ex. “Extreme Skiing”), the system would subsequently, “[highlight] a second user-selectable index range associated with a second media title . . . in response to the client device receiving user input designating said second media title to be highlighted” upon the user returning to accessing the program Title – Theme – Letter indexing functionality (Rubenstein, col. 10, line 47 – col. 11, line 10).

In consideration of claims 46, 47, and 56, the combination of LaJoie et al. and Rubinstein is silent with respect to the “media information parameter corresponding to a media release year . . . “ as recited in the claims. However, as aforementioned, the LaJoie et al. reference suggests that the system is operable to further provide multiple sort criteria based upon any one or set of program characteristics. The release year of the media is a characteristic of the media. The Young et al. reference discloses utilizing a “media information parameter corresponding to a media release year, the first range of values defining the first user-selectable index is a year, and a second range of values

defining a second user-selectable index is a plurality of years” (Young et al.: Col 13, Line 60 – Col 15, Line 23). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify LaJoie et al., as suggested, to utilize other program characteristics in connection with indexing program titles including the utilization of the “value of the release year of the media” as an user-selectable index as taught by Young et al. for the purpose of ordering the display of information most conveniently for the user based upon available program characteristics (Young et al.: Col 2, Lines 43-57). Rubenstein talks about the index range in col. 10, line 47 – col. 11, line 10.

Claim 49 is rejected in light of the aforementioned wherein the “user-selected category corresponds to the media titles in the received media information corresponding to all the movies in the media information” (LaJoie et al.: Figure 20).

In consideration of claim 50, the “user-selected category corresponds a portion of the media titles in the received media information corresponding to one from . . . drama” as in the case of the designation of the user-selected category “Movie” which corresponds to media titles such as Movie/Drama entitled “Casablanca” (LaJoie: Figure 22).

Claim 51 is rejected wherein a “first range of values corresponding to the first user-selectable index range is a year, and a second range of values corresponding to a second user-selectable index range is a plurality of years” (Young et al.: Col 14, Lines 56-64, Rubenstein, col. 10, line 47 – col. 11, line 10).

***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLUGBENGA O. IDOWU whose telephone number is (571)270-1450. The examiner can normally be reached on Monday to Friday, 7am - 5pm Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendelton can be reached on 571 272 7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Olugbenga O Idowu/

Examiner, Art Unit 2623

/Brian T. Pendleton/

Supervisory Patent Examiner, Art Unit 2623